

N.D.H.: 24.10.2024

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH
AT NEW DELHI

ORIGINAL APPLICATION NO. 544 OF 2023**IN THE MATTER OF:**

PARAS NATH AND ANOTHERAPPLICANTS

VERSUS

UTTAR PRADESH POLLUTION
CONTROL BOARD AND OTHERSRESPONDENTS**INDEX**

S.No.	PARTICULARS	PAGE NO.
1.	Rejoinder Affidavit to the Replies filed by Respondent No. 8 both dated 21.07.2024	1 – 12

Place: New Delhi**Date:** 15.10.2024**FILED BY:**


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**REJOINDER TO THE REPLIES FILED BY
RESPONDENT NO. 8 BOTH DATED 21.07.2024**

1. That the Applicants herein have been read over and explained the contents of the replies filed by Respondent No.8 – IFFCO in hindi and thereafter giving the rejoinder to the same.
2. That the Applicants reiterate and affirm the contents of the Original Application as well as the objections filed against the Report of the Joint Committee dated 05.12.2023. The Applicants denies each and every averments made by Respondent No.8 in their replies which is contrary to the contents of the Original Application or the objections against the Report of the Joint Committee except the one which have being expecially admitted herein.

Rejoinder to reply of Respondent No. 8 to objections by Applicants against Joint Committee Report.

3. That it is incorrect and false that Applicants have filed a baseless OA before this Tribunal after having field before the High Court as well as in Supreme Court. The issue of illegal discharge by the Respondent No. 8 and inaction of Authorites to check same was riased before the High Court by filing PILs

in year 2002 and 2005. However, the said PILs were dismissed by High Court the ground of availability of other statutory remedies on 09.10.2017. Hence, the Applicants approached the Hon'ble Supreme Court in 2017 wherein finding substance in the plea of the Applicants the Court issued notices. However, on 13.02.2023 while hearing the petitions the Supreme Court allowed the Applicants to withdraw the petitions with liberty to take alternative remedy, i.e., approaching this Tribunal by filing OA. Thus, there is no adjudication either by High Court or Supreme Court on merits of the case.

4. That it is irrelevant that the Respondent no. 8 has received award or certificates of appreciation from various bodies and institutions. The ground reality is different from the fact which the Respondent no. 8 has presented before the authorities and agencies and the same is evident from records of the present matter.
5. That it is false that the Respondent no. 8 is maintaining highest level of environmental standard and has ensured adequate no of pollution control measure. The falsity in the said averment is self evident from the fact that the Respondent no. 8 claims that quality of treated effluent always conforms to the standard laid down by U.P. Pollution Control Board and MINAS, whereas the said Respondent No. 8 also claims itself to be a Zero Liquid Discharge and could not be discharging any effluent at all.
6. That the CTO under the Air and Water Act both dated 04.01.2022 are valid only for Urea. However, the Respondent No. 8 is producing large quantity of ammonia as well. Hence,

the CTO for Urea cannot be considered as consent for Ammonia. It is further submitted that the Air Act under section 21 while s. 25 of the Water Act clearly restricts operation of any industrial plant without consent for the same. In the event Respondent no. 8 is producing Ammonia for production of Urea it is required to obtain the consent for Ammonia as well. It is submitted that the purpose for the said consent is to limit and regulate the emission/ discharge of the pollutants from the production of the respective substance. In the event of no CTO for ammonia there is no restriction on production of the same.

7. That the contention of the Respondent no. 8 that Ammonia is an intermediate product and hence its production does not require CTO is misleading. It is submitted that consent is granted on the basis of consideration of the substance to be produced. For production of urea Respondent no. 8 is free to obtain ammonia from outside sources, however, in the event it did not obtain any CTO for its production it cannot be allowed to claim as exemption on ground of ammonia being an intermediate product. Moreover, just because it is an intermediate product Respondent No. 8 has not been granted exemption from obtaining EC for ammonia production unit. The production of ammonia is itself critical being a dangerous substance, hence, CTO for the same cannot be exempted on ground of being an intermediate product.
8. That even the specific conditions in para 1 for the years 2020-2021, and 2022 does not mention Ammonia in it which is in contrast to the Consolidated CTO dated 21.12.2022 for 2023-27 wherein the specific condition in para 1 mentions about Ammonia being an intermediate product. It is submitted

without admitting that event mention of mention of ammonia as an intermediate product for urea is not compliance of CTO for ammonia, however, non mention of the same in earlier two CTOs clearly shows that there was no permission even to produce it as an intermediate product. Hence, the entire production of ammonia has been done illegally.

9. That the Respondent no. 8 admits that it has a captive generation plant for 53.5 MW but it has no EC for the same. There is no grant of EC for the captive generation plant on 14.03.2022. It is relevant to appreciate sl. no. 3 of the EC at page no. 222 wherein it has been mentioned for what purpose EC is granted. At page 224 serial no. 11 it is mentioned that :

“11. The total Power requirement after expansion & modernization shall be limited within the existing sanctioned quantity i.e.,53.5 MW. Same is being met by Captive power and Grid Supply. The electrical power generated in CPP is used to fulfill the requirement of entire plant. Plant has 2 nos. of steam turbine driven through Turbo generator viz. TG-1 (Rating 15.625 MVA), TG-2 (Rating-22.5 MVA) and one Gas Turbine Generator (GTG) (Rating-28.125 MVA) in captive power plant. In cases of emergency, a provision has also been made to draw power from UPPCL Grid for which contract demand is 6000 KVA. Existing unit has two no. of DG Sets of Capacity 2700 KVA as standby during power failure. Stack Height of 30 m is provided as per CPCB norms.”

The above conditions shows that the Respondent was allowed to meet the power requirement from the existing sanctioned quantity. However, there is no sanction quantity as no EC was ever granted or CTO was ever obtained for the captive generation. Further, the said condition also establishes that the project proponent has made false and incorrect statement at the time of obtaining EC that it has sanctioned quantity of 53.5 MW.

10. That it is further misleading and false that the Respondent no. 8 has obtained CTO for captive generation vide CTO dated 21.12.2022 for 2023-2027. The said CTO clearly mentions in specific condition para 1 that it is granted for Urea production. Hence, condition provided in pr. 19 is not the process for which the CTO is granted but the condition which the PP is required to maintain to keep the CTO for urea valid. Moreover, the Respondent no. 8 evidently failed to provide any reply for the EC and CTOs for captive generation for prior prior to 2023 which establishes that captive generation was done in utter violation of environmental laws.
11. That it is incorrect that the Respondent is allowed to extract sum of maximum allowable annual extraction. The specific mention of the daily quantity in the in the NOC provides the maximum daily extraction and the Respondent no. 8 has no right or permission to extract beyond the same. Annual extract limit is the outer limit beyond which the Respondent no. 8 is not permitted to extract. Further, NOC/ authorization obtained by the Respondent no. 8 is for 74880 KLD of groundwater where as EC allows the unit to extract only 35290 KLD. The Respondent no. 8 has admitted in its reply that it has extracted ground water as per the daily average limit of NOC which shows that not only did it violated the NOC UPGWA as well as the EC.
12. That committee has made a illegal and perverse observation in column no. 12 at 173 of the report that the extraction was within limit. The report clearly mentions as pg 127 that the average use of the groundwater from the 01.07.2023 to 15.10.2023 as per the log book was 65048 KLD, which is is

violatio of EC. NOC from the UP groundwater department cannot not supersede the conditions of EC being granted under EIA Notification issued under the provisions of EP Act.

13. That the charging of water cess by UPPCB does not absolve the Respondent no. 8 from obtaining the permission from the concerned ground water department. The alleged NOC dated 18.02.1995 was granted to the Respondent no. 8 by the U.P. groundwater authority, however, it is pertinent to mention that the there was no authority to UP Ground Water Department to give NOC for ground water extraction in 1995 and it was only with Central Ground Water Authority. Moreover, after the 1995 there has been many other wells created by the Respondent no. 8 but till 2018 it did not applied to any authority and it was only in 2022 it got NOC from UPGWA. Thus, before that entire extract was done illegally without permission.
14. That in respect of the discharge of treated water in storm water drain it is submitted that the report at page 149 states that the storm water drain carries treated domestice wasterwater from the unit and joins IFFCO drain with the units boundary. The said observation in the report has not been denied by the Respondent no. 8 in its reply to the report of joint committee. The photographs also shows good amount of water being present in the storm water drain. This fact shows that the Respondent is not adhering to the zero liquid discharge and is discharging the untreated effluent through the storm water drain in river ganga.

15. That the reply on behalf of the Respondent no. 8 is further incorrect regarding the storm water drain as in Table no. 37 at page 146 laboratory analysis results of samples collected from drain is provided. The said table shows that there are traces of industrial effluent in storm water drain as there is presence of high TSS, TDS, Ammonical Nitrogen, TKN, sulphate etc.
16. That the installed other equipments at the Respondent no. 8 are irrelevant in light of the fact that they are in utter violations of the permissions, NOCs, consents. Hence, mere installation of the other equipments are of no relevance. Further, the explanation of the Respondent no. 8 that the area around it is low lying area and, therefore, there is problem of water logging is highly misleading and hence denied. It is pertinent to mention that it is not the water logging which is affecting the Applicants and other villagers. The problem pertains to the over flow of the storm water drain due to the release of ammonia water by the Respondent no. 8 which spills over to the farms of the villagers and spoils the crops. There is no affect of the area being low lying to the issue faced by the villaers since past three decades.
17. That in light of the reply and the facts mentioned in the objection the Applicant submits that the present application be allowed and the prayer be granted.

Rejoinder to reply of Respondent No. 8 to the Original Application

18. That the contents of the reply filed by Respondent no. 8 to the Original Application is mainly repetition of the reply to the objection of joint committee which has already been replied to

above in precedings paragraphs. Hence, the same are not reietrated herein for sake of brevity. However, the Applicant again denies that the Respondent no. 8 is maintianing the ZLD. The fact that the project proponent is discharging the untreated effluent is evident from the fact that the report of the ojint committee clearly mentions this aspect in its report. Further, it is misleading and false that the Respondent no. 8 has been allowed to extract water on daily average of the annual permissible quantity. The NOC clearly mentions the outer limit of yearly withdrawal permitted with the maximum allowed per day limit. Hence, the Respondent no. 8 is illegally drawing water in excess of the permission.

19. That it is further repeated here that the NOC obtained by the Respondent no. 8 is in violation of the EC and the xtraction is being done in violation of EC as well as the NOC.
20. That the explanation of the Respondent no. 8 regarding utilising the treated water for horticulture in CORDETT area and in ponds is misleading for the reason that Respondent is allegedly allowed to utilise 74880 KLD of fresh water from the underground. Out of the said alleged allowed quantity of fresh water extraction, as per report 65000 KLD is extracted on average rate. Apart from the alleged recycled/ treated water put in use. As submitted in the reply and also mentioned in report at page 185 Respondent has storage of 2400 KLD of untreated water and utilizes only 4080 KLD for ETP. Other than this there is 3000 KLD of STP. This simple calculation shows that the huge quantity of wastewater generated is not being treated by Respondent No. 8 and it is being discharged through the storm water drain, the outlet of which is shown in photograph

at page no. 48 of the OA. Further the CORDETT area where the Respondent no. 8 claims to utilise the water treated water for horticulture is also misleading because unless the water is treated it cannot utilise the same and also it is highly unlikely that it will have a daily requirement of such huge quantity of water for horticulture throughout the year. Thus, bypassing the untreated effluent in storm water drain is evident.

21. That it is denied that the Respondent no. 8 did not made the drain to discharge the water from its unit to the river Ganga. It is further submitted that even otherwise taking the argument of the Respondent no. 8 as correct for sake of argument even then it is not denied that IFFCO Drain/ Tisarua Nala is not joined by the Respondent no. 8 with the storm water drain from its unit. The said storm water drain evidently carries effluent from the unit which is stated in the report and even the water analysis test shows that it contains the traces of chemicals. Hence, it is obligatory for the Respondent no. 8 in such case to maintain the said drain so as to not to protect the farmer fields from the waste water.
22. That it is false and incorrect that the Applicant herein has filed the present OA for gaining employment with Respondent no. 8. The Applicant submits that the Respondent no. 8 is in the village since past more than four decades. The farmers are engaged in work of cultivation. It was only in 2003/2005 when Applicants/ vilagers incurred losses due to the crop damage because of overflowing of ammonia mixed waste water in their fields they approached the High Court and subsequently Supreme Court. In the event the villagers were to obtain any benefit of employment they would have agitated the issues

much before mainly immediately after its establishment. But it was only when they suffered damage to crop and no heed was paid by the authorities the villagers taken legal course.

23. That it is submitted that the report of the Tehsildat dated 24.11.2001 shows that the farmers have suffered crop damage since many years and the same is attributable to Respondent no. 8 only. It is also false that the Respondent no. 8 ever got the drain cleaned on any humanitarian ground. The report of the Tehsildar clearly mentions that the said drain was got cleaned by one Jeet Lal Patel at his own expense in year 1995 and Respondent was obligated to pay him but failed to make any payment. The report though of year 2001 shows that the earlier Respondent no. 8 has agreed to make the payment for the crop damage to the farmers, however, no payment was made subsequently to anyone. Hence, the Respondent no. 8 is liable to pay environmental compensation to the Applicants and other affected farmers.
24. That the Respondent no. 8 baldly denied the report of the Tehsildar while it has admitted that a complaint has been made to the Human Rights Commission which directed for any enquiry. The Report of the tehsildar clearly mentions that the enquiry was done on the order of ADM dated 02.07.2001 after complaint to the Human Rights Commission. The said report also mentions that that behalf of Respondent its Joint GM Operations Surech Chandra Dwivedi was present at the time of enquiry.
25. That lastly, Applicants again reiterate and affirm the contents of the OA and deny the averments made in its reply which is

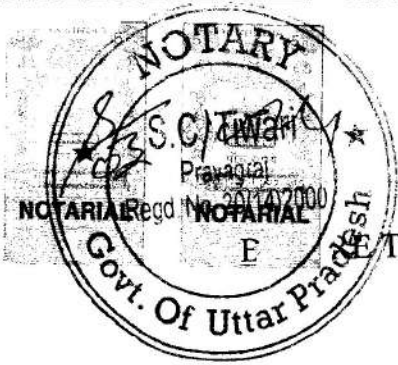
not specifically admitted herein. The Applicants prays that in the light of the facts mentioned in the present reply and on the basis of the record available it is clear that the Respondent no. 8 is liable for environment damage causing loss to the farmers. Hence, the Applicants submits that the prayer made in the OA deserves to be allowed.

PARAS NATH
Applicant No. 1

Through Counsel


(GAURAV AGARWAL & SHRISTI GUPTA)
Advocates for the Applicants

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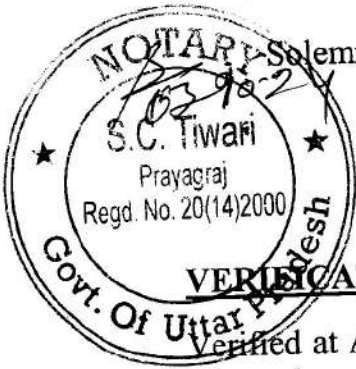
....RESPONDENTS

AFFIDAVIT

I, PARAS NATH, aged about 69 years, Son of Sri Gajadhar, Resident of Village Khodaypur, Tehsil Phulpur, Post Office Bagae Khurd, District Allahabad, U.P. - 212404, do hereby state on solemn affirmation as under:-

1. That the deponent is the Applicant No. 1 in the present Original Application as such I am well conversant with the facts and circumstances of the present case and hence, competent to swear this affidavit. The Deponent is also authorized to swear the affidavit on behalf of the Applicant No. 2
2. That I have gone through the accompanying Rejoinder Affidavit and say that the contents there of are true and correct to my knowledge and belief and I believe the same to be true.

Solemnly affirmed on this 03 day of October, 2024 at Allahabad, U.P.



[Signature]
DEPONENT

VERIFICATION :

Verified at Allahabad, U.P., on this 03 day of October, 2024 that the contents of my above affidavit are true and correct to my knowledge and no part of it is false and nothing material has been concealed therefrom.

[Signature]
DEPONENT

Str/Emt. P. Nath.
Identified by *S.C. Tiwari*
Advocate on dated *03/10/24*
before me that *03/10/24*
the contents of affidavit to be true and correct.

03/10/24
S. C. Tiwari
Notary Prayagraj

Identified by
[Signature]
Advocate